IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE J.B.KOSHY
&
THE HONOURABLE MR. JUSTICE M.N.KRISHNAN

MONDAY, THE 6TH NOVEMBER 2006 / 15TH KARTHIKA 1928

MFA.No. 141 of 2002(C)

IC.2/2000 of EMPLOYEES INSURANCE COURT, ALAPPUZHA
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APPELLANT: APPLICANT

HOTEL SRI KRISHNA BHAVAN,
D.H.ROAD, COCHIN-682016, REPRESENTED BY ITS
MANAGING PARTNER, K.R.VENKITARAMAN.

BY ADV. SRI.A.V.XAVIER
SRI.JOLLY JOHN

RESPONDENTS: OPPOSITE PARTIES IN I.C.2/2000
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1. EMPLOYEES STATE INSURANCE CORPORATION,
PANCHADEEP BHAVAN, N.S.ROUND, TRICHUR-20,
REPRESENTED BY ITS REGIONAL DIRECTOR.

2. RECOVERY OFFICER, EMPLOYEES STATE
INSURANCE CORPORATION, PANCHADEEP BHAVAN,
N.S.ROUND, TRICHUR-20.

BY ADV. SRI.TPM.IBRAHIM KHAN

THIS MISC. FIRST APPEAL HAVING BEEN FINALLY HEARD ON 06/11/2006, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

ORDER ON C.M.P.NO.3110/2002 IN M.F.A.NO.141 OF 2002

DISMISSED

6.11.2006

SD/- J.B.KOSHY, JUDGE.
SD/- M.N.KRISHNAN, JUDGE.

// TRUE COPY //

TKS

J.B.KOSHY & M.N.KRISHNAN, JJ.

M.F.A.No.141 OF 2002

Dated 6th November, 2006

JUDGMENT

Koshy,J.

The appellant partnership firm doing hotel business was asked to be covered under the Employees' State Insurance Act with effect from 20.10.1989, treating it as a factory. Appellant approached this court questioning the coverage by filing a writ petition. This court granted stay of further proceedings. Finally, the writ petition was disposed of directing the appellant to approach the Employees' Insurance Court. The Insurance Court finally held that appellant establishment is a covered establishment. Both Employer's and employees' contributions were paid retrospectively during the period of stay though Corporation did not give any retrospective benefits. After receipt of retrospective contributions, the Corporation imposed damages and interest. The Employees' Insurance Court set aside the demand of damages as the appellant was bona fide contesting the matter. But, statutory interest under section 39(5) was ordered and the Insurance Court held that interest is payable. It is true that damages is penal in nature and since the bona fides were proved, damages were not imposed. But, payment of

interest is statutory for delayed payments. There is no need to interfere in the order.

The appeal is dismissed.

J.B.KOSHY
JUDGE

M.N.KRISHNAN
JUDGE

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